Judge:	Hon. Marc L. Barreca
Chapter:	7
Hearing Date:	October 7, 2011
Hearing Site:	700 Stewart St., #7106 Seattle, WA 98101
Hearing Time:	9:00 a.m.
Response Date::	October 5, 2011

UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re: ADAM GROSSMAN, Debtor.	Case No. 10-19817 TRUSTEE'S RESPONSE TO MOTION FOR ORDER DECLARING PROPERTY NOT ABANDONED FROM THE BANKRUPTCY ESTATE

RONALD G. BROWN, the Chapter 7 Trustee of the bankruptcy estate of Adam Grossman, by and through his undersigned counsel, responds to the debtor's Motion for Order Declaring Property Not Abandoned from the Bankruptcy Estate ("Debtor's Motion") as set forth below.

The caption on the Debtor's Motion is misleading at best. There has never been an order abandoning the Montcrest property. On November 12, 2011 (docket # 61) the Court entered an order confirming that No Stay is in Effect ("No Stay Order") due to the serial bankruptcy filings of the debtor. The No Stay Motion (docket #52) sought authorization for the State Court to proceed with the trial in the divorce between the debtor and the debtor's now ex-wife, and authorizing the State Court to divide the assets and liabilities.

Based on this No Stay Order the State Court did in fact hold a trial and award assets and liabilities. See Decree of Dissolution attached as Exhibit "1" to the Declaration of Denice Moewes filed simultaneously herewith.

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The Montrcrest property was awarded to the wife. Three other parcels of real property and several items of personal property, including the debtor's interests in various businesses, were awarded to the Debtor. The debtor was ordered to sign transfer documents to transfer title to the Montcrest Property back to the wife. The debtor refused. The State Court ordered a special master to sign the transfer documents on behalf of the debtor, which happened.

The debtor then transferred the Montcrest property and it ultimately ended up titled in the name of Mandy Andrews[1]. The debtor then repeatedly lied about having transferred the Montrcrest Property. On September 7, 2011 the State Court entered Findings and Order on Contempt Review Hearing/Order Enforcing Parenting Plan and Garnishment ("Jail Order") which required the debtor to pay his ex-wife $215,000, the value of the Montcrest property he converted, or go to jail. The hearing to determine compliance with the Jail Order is set for October 20, 2011. Moewes Declaration, Exhibit "2". The Trustee strongly urges this Court to read the Jail Order and specifically page 4, paragraphs 2.13 through 2.19.

Two weeks after the Jail Order was entered the debtor filed the Debtor's Motion, and a motion to shorten time seeking an order declaring the Montcrest Property to constitute property of the estate that the debtor can take no action in relation thereto [2]. No discussion is had as to how this Court is supposed to deal with the fact that the debtor already transferred the Montcrest Property, in violation of the Bankruptcy Code and the Decree of Dissolution.

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[1] The Trustee has no idea who Mandy Andrews is. He obtained a 2004 order requiring her to produce documents but those documents are not due until October 10, 2011.

[2] The last several motions filed by the debtor have all been on shortened time. It would really be helpful if the Court could caution the debtor's counsel about seeking to shorten time on every motion. This present motion could have been noted timely since the Jail Order was entered two weeks before the debtor every got around to filing this present motion.

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The Debtor's Motion is procedurally flawed in virtually every respect. First of all, the No Stay Order is a final order. It was not objected to by the Debtor nor appealed by the debtor. If the debtor wants to get the No Stay Order vacated he must file a Rule 60(b) motion and demonstrate why he would be entitled to such relief using the 9th Circuit standards for Rule 60(b) relief.

The No Stay Order was not objected to by the debtor and was relied upon by the State Court in dividing the assets and liabilities. The debtor is judicially estopped from taking the position that the state court had the ability to divide the assets and liabilities and then run into Bankruptcy Court almost a year later, and now argue the state court did not have the ability to divide the assets and liabilities. The debtor seems to take the position that the only asset the state court was prohibited from dealing with was the Montcrest property. Apparently the state court had the ability to deal with the three pieces of real property that awarded to him, because the Debtor's Motion does not seek a determination that the state court did not have authority to divide those assets. It is not surprising that the debtor does not mention the properties he was awarded via the Decree of Dissolution since he transferred them all, post-petition, without court approval and for no consideration. Moewes Declaration, Exhibit "3".

Further the Decree of Dissolution constitutes a final order by the state court. The Rooker Feldman doctrine prevents this Court from taking any action to alter the State Court Decree of Dissolution.

An equitable remedy requires equitable conduct. Why this debtor would think for one minute that this Court would take any action to keep the debtor out of jail when he has still not complied with Judge Steiner's November 16, 2010 order requiring him to produce substantial documentation regarding assets that appear to have vanished (docket #64) is beyond the trustee. The fact of the matter is that the debtor has

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transferred all of the assets of this estate post-petition, with no consideration, and without court approval, failed to comply with Court orders, failed to appear for several section 341 meetings, and generally obstructed the trustee at every step of the way with his untruthfulness and noncooperation. Attached to the Moewes Declaration is the draft complaint the trustee intends to file in the next 24 hours to avoid the post-petition transfers, and other transfers

The only relief that should be granted to this debtor is conditional relief – that if the debtor were to deposit a certain amount of funds into this estate, sufficient to pay the claims in full, the Court will enter an order declaring the Montcrest Property not abandoned, and order the Trustee to recover the Montcrest Property and transfer title to the wife. The Trustee will review the claims and have the number that would be required in order to pay the creditors in full at the hearing. The only reason the trustee would even suggest such conditional relief, which would result in the debtor staying out of jail, is to get this case resolved quickly, stop the massive attorney's fees the trustee's counsel is incurring from the debtor's continued shenanigans, and getting the creditors paid in the immediate future.

Dated this 5th day of October, 2011.

WOOD & JONES, P.S.

/s/ Denice E. Moewes
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